

**State of Indiana
Department of Natural Resources
Division of Water**

Department Memorandum

Date: January 25, 2024

To: Natural Resources Advisory Council

From: Celena Langlois; IDNR, Division of Water

Subject: Summary of Public Meetings held for contract application BL 23-001 between The City of Brookville and The State of Indiana for withdrawal of water from Brookville Lake for the purpose of golf course irrigation.

The State of Indiana is authorized under Indiana Code 14-25-2 to sell water on a unit pricing basis for water supply purposes or low-flow augmentation from the water supply storage in reservoir impoundments, or portions of the impoundments that are financed by the State. The Department of Natural Resources, Division of Water, acts as administrator for these contracts. The provisions of IC 14-25-2 and Rule 312 IAC 6.3 require that a written application to request a contract be submitted to the Department, and that public meetings be held to gather testimony on the request. The division director shall appoint a Department employee to serve as public hearing officer for the meetings. The Advisory Council will then hold a public meeting, and within thirty (30) days, shall submit to the Commission a report summarizing the public meeting.

Contract Request Summary

Brook Hill Golf Club Inc. previously held an existing water supply contract **BL-15-001** or IDOA contract ID **E6-5-A075**, for their water usage from October 1, 2015 to September 30, 2025. During the previous contract, the City of Brookville purchased Brook Hill Golf Course from Brook Hill Golf Club Inc. The new owners would like to enter into a new water supply contract with the State of Indiana to irrigate the golf grounds.

A contract for the sale of water on a unit pricing basis that is entered into under IC 14-25-2 must provide for compensation to the state at the rate of not less than thirty-three dollars (\$33) per one million (1,000,000) gallons of water. The recently expired 10-year contract with Brook Hill Golf Course has generated an average of \$285 per year in revenue and would provide at most \$825 in revenue if the maximum annual withdrawal is met.

AGENDA ITEM #5

In accordance with Rule 312 IAC 6.3-3-1, a written request is to be submitted to the Division of Water, and must include the following information:

- 1) **Contract Applicant:** City of Brookville, 11175 Fairway Lane, Brookville, IN 47012
- 2) **Proposed Use:** Golf Course Irrigation
- 3) **Location of Withdrawal:** Brookville Lake is in Union and Franklin Counties; the golf course is in Union County, Harmony Township, Whitewater Basin, at the southern end of the reservoir on the west side.
(Township 9N Range 2W Section 9) See Map provided.
- 4) **Proposed Term:** Ten (10) years
- 5) **Requested Withdrawal:** 25 Million Gallons (MG) per Year; Average Daily Limit of 0.139 Million Gallons per Day (MGD), based on 180 day irrigation season.
- 6) **Measurement:** Flow Meter (existing)
- 7) **Summary of Alternatives and Justification:** See attached application.
- 8) **Contingency Plan:** See attached application.
- 9) **Conservation Plan:** See attached application.

Brookville Lake Available Water Supply Storage:

Total water supply storage in Brookville Lake is between elevations 713 and 740 feet, National Geodetic Vertical Datum, 1929 adjustment, measured at the dam. The State of Indiana has the right to 100% of this water supply storage, an amount estimated to be 89,300 acre feet, for the purposes of water supply and low-flow regulation (provided the designated space is physically available). Firm yield from this volume of water supply storage is estimated to be 82 million gallons per day (MGD). The sum of annual limits of all current water supply contracts (Of which there are one—another golf course.) for withdrawal from Brookville Lake is currently 35 million gallons (MG) which is less than 1% of the estimated available water supply volume.

Public Meetings Summary and Public Comment

Public meetings were conducted by Public Hearing Officer and Division of Water personnel Celena Langlois, to gather testimony on the application for Contract Number **BL 23-001** between the City of Brookville and the State of Indiana. The meetings took place in the following two (2) counties, as required by IC 14-25-2-2.5 (h) and 312 IAC 6.3-3-3:

- October 24, 2023 – Union County, Liberty, IN; and
- October 24, 2023 – Franklin County, Brookville, IN.

A brief presentation was presented outlining the provisions of IC 14-25-2 and Rule 312 IAC 6.3 which govern the Department's authority to enter into water supply contracts. (See attached.) Available water supply data was provided for Brookville Lake as well as established water supply priorities, the nature of the pending request and the application specifics, factors the Natural Resources Commission may consider during review and acting upon a request, and the process by which the Commission makes a determination to deny, condition, or approve a contract.

There was zero public participation in the first public meeting in Union County.

Two individuals participated in the Franklin County Meeting: one from the WRBI radio station who indicated 'no opinion', and one member of the City of Brookville town council who indicated 'no opinion' but stated she was making herself available for questions on plans for the future water use of the facility.

Conclusions and Recommendations:

The ten (10) year contract term and annual withdrawal limit of 25 MG will allow the City of Brookville to continue to irrigate Brook Hill Golf Courses current grounds. Division of Water staff believe that the volume of water available from Brookville Lake is adequate to satisfy the annual withdrawal limit of 25 MG for the ten (10) year term of the contract as this volume represents only a small fraction of the 82 MGD yield available in Brookville Lake. The total volume of water committed by contractual agreements would be less than 1% of the designed water supply capability of Brookville Lake. Potential impact to the recreational facilities of the reservoir is expected to be negligible. Therefore, the public hearing officer requests the Advisory Council recommends the Natural Resource Commission approve Water Supply Contract **BL 23-001** between the City of Brookville and the State of Indiana.

CONTRACT BETWEEN
THE STATE OF INDIANA
AND
CITY OF BROOKVILLE
FOR
WATER SUPPLY FROM BROOKVILLE LAKE, INDIANA

THIS CONTRACT, by and between the State of Indiana (hereinafter called the State), acting by and through the Department of Natural Resources, an agency and instrumentality of the State of Indiana, and the City of Brookville, (hereinafter called the Corporation),

WITNESSETH THAT:

WHEREAS, the construction of Brookville Lake on the Whitewater River was authorized by the Flood Control Act approved 28 June 1938 (P.L. 761, 75th Cong., 1st Sess.); and

WHEREAS, the State, acting pursuant to the authority of Chapter 160, Acts of 1957, and the United States of America, acting pursuant to the authority of the Water Supply Act of 1958 (Title III of the Act approved 3 July 1958, P.L. 85-500, 85th Cong., 2nd Sess.), have entered into Contract No. DA-15-029-CIVENG-65-192, dated 24 May 1965, whereby the State has the right to use a part of the Brookville Lake storage capacity, consisting of that space between elevations 713.0 feet above mean sea level and 740.0 feet above mean sea level (measured at the dam) and having an estimated volume of 89,300 acre-feet, for the purposes of municipal and industrial water supply; and

WHEREAS, the State is authorized and empowered, pursuant to the authority of Indiana Code 14-25-2, to contract to provide certain minimum quantities of stream flow or to sell water on a unit pricing basis for water supply purposes from the water supply storage in reservoir impoundments or parts of the impoundments that are financed by the State of Indiana; and

WHEREAS, the Corporation desires to purchase raw water from Brookville Lake for water supply purposes;

NOW, THEREFORE, the parties do mutually agree as follows:

ARTICLE 1. Sale of Water by the State and Annual Limit. In consideration of the payments to be made to the State by the Corporation as hereinafter provided, the State agrees to sell to the Corporation, from that part of the storage space in Brookville Lake between elevations 713.0 and 740.0 feet (National Geodetic Vertical Datum, 1929 adjustment, measured at the dam), such quantities of raw water as the Corporation can beneficially utilize for grounds and golf course irrigation purposes up to an annual limit of twenty-five (25) million gallons.

This contract will be null and void if the water provided by the State is utilized for any purpose other than the designated irrigation uses.

ARTICLE 2. Purchase of Water by the City of Brookville. In consideration of the raw water to be made available by the State in Brookville Lake for withdrawal by the Corporation, as hereinbefore provided, the Corporation agrees to buy water for grounds and golf course irrigation purposes, up to an annual limit of twenty-five (25) million gallons, in accordance with the rates, prices, terms, and conditions of this contract.

The Corporation further agrees to pay the State for raw water withdrawn by it from Brookville Lake at the rate set forth in IC 14-25-2-3, which is thirty-three dollars (\$33.00) per one million (1,000,000) gallons of water.

ARTICLE 3. Term. This contract shall be in full force and effect from the date of approval thereof by the Governor of Indiana and shall continue for a period of ten (10) years, subject to renewal as provided in Article 11.

ARTICLE 4. Determination of Volumes and Access to Records. For the purpose of determining the amounts of water to be paid for, the Corporation agrees to furnish, install, maintain, and operate an accurate meter for the measurement of all water withdrawn by it from Brookville Lake. Such meter shall be calibrated from time to time upon demand by the State, which demand shall not be unreasonably made. This meter shall be read on November 30th of each year, and accurate records of water withdrawn from the reservoir shall be maintained by the Corporation, which records shall be available for inspection by the State at reasonable times and places. The Corporation shall supply the State with a summary of such records at the time payment is made. The furnishing, installation, maintenance, operation, and calibration of meters and the preparation and furnishing to the State of such records and summaries shall be at the expense of the Corporation.

ARTICLE 5. Authority to Bind Contractor. The signatory for the Corporation represents that he/she has been duly authorized to execute this Contract on behalf of the City of Brookville, and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Corporation when his/her signature is affixed, and accepted by the State.

ARTICLE 6. Payments. Payments to be made by the Corporation to the State under the contract shall be made payable to the Department of Natural Resources and shall be delivered to the Division of Water of the Department of Natural Resources or its successor at Indianapolis, Indiana. Payments shall be due on or before December 31 of each year.

ARTICLE 7. Source of Water Withdrawn. It is expressly understood and agreed that raw water to be made available to the Corporation by the State in Brookville Lake is to be taken from that part of the reservoir storage capacity between elevations 713.0 and 740.0 feet (National Geodetic Vertical Datum, 1929 adjustment, measured at the dam) and that the undertakings of the State with respect to the availability of water to the Corporation pursuant to this contract are

conditioned upon the ability of the Corporation to withdraw water to a minimum reservoir level of 713.0 feet.

ARTICLE 8. Water Quality. This contract is for the sale of raw water from the storage space in Brookville Lake allocated to water supply, and it is expressly understood and agreed by the parties hereto that the State makes no representation or guarantee, implied or otherwise, as to the quality of such raw water.

ARTICLE 9. Availability and Allocation Factors. The State shall never be liable to the Corporation for failing to supply water pursuant to this contract when water is physically not available due to causes beyond the control of the State. However, the State shall use due care and diligence not to make commitments to sell more water from Brookville Lake than can reasonably be obtained, from the part of the Brookville Lake storage capacity to which the State has acquired the water supply rights, during a recurrence of the most critical drought previously recorded over the watershed of the reservoir. The amount that can be obtained, i.e., the critical yield of the said reservoir storage space, shall be determined by the State. Such determination by the State shall be binding upon the parties if made in good faith and based upon substantial evidence.

Notwithstanding, should a shortage of water occur, the State agrees that it will then fairly and equitably apportion the supply available as between its several customers, including the Corporation. The State will advise the Corporation in writing of the results of its determination of critical yield and of any changes in such determination that may later be necessary due to changed conditions.

The Corporation specifically recognizes and agrees that its rights to the availability of water are subject to the rights, privileges, and limitations imposed upon the State pursuant to the provisions of Articles 1, 2, 3, and 4 of Contract No. DA-15-029-CIVENG-65-192 between the State and the United States of America, dated 24 May 1965.

The Corporation specifically recognizes and agrees that its rights to the availability of water from Brookville Lake pursuant to this contract are subject to the water allocation priorities established in 312 IAC 6.3 which governs the withdrawal or release from a reservoir that occurs during a drought alert or other emergency.

ARTICLE 10. Increase of Limit by Supplemental Agreement. If, at any time during the life of this contract, it becomes apparent on the basis of sound accepted engineering practice that the annual limit of twenty-five (25) million gallons, as provided for in Article 2 of this contract, is inadequate to meet the Corporation's water supply needs, then the said limit may be increased by a supplemental agreement mutually acceptable to both parties; PROVIDED, that such increase shall be restricted to that reasonably necessary to meet the Corporation's needs for the life of this contract, that it shall be within the capability of that part of the storage space in Brookville Lake between elevations 713.0 and 740.0 feet (National Geodetic Vertical Datum, 1929 adjustment, measured at the dam) then uncommitted to other uses, and that the required approval is obtained from the appropriate authorities.

ARTICLE 11. Renewal. Upon expiration of the period prescribed in Article 3, the parties to this contract shall have the right, subject to the required approval of appropriate authorities, to enter into a separate or supplemental agreement, mutually acceptable to both parties, for the further withdrawal by the Corporation of raw water for grounds and golf course irrigation purposes from the storage space then available to the State in Brookville Lake for water supply purposes.

ARTICLE 12. Permits and Easements. The Corporation shall be solely responsible for obtaining, at its own expense, permits or easements for the use of lands owned by others, including the United States of America, necessary for the installation, maintenance, and operation of all structures and facilities for the withdrawal of water from the reservoir for its intended use. The State will cooperate with the Corporation in obtaining such permits and easements insofar as they relate to lands owned by or under the jurisdiction of the State or the United States of America; PROVIDED, that such cooperation shall not extend to the payment of any part of the cost of securing such permits or easements.

ARTICLE 13. Structure and Facility Costs. It is understood and agreed that the design, financing, construction, maintenance, and operation of any and all structures and facilities of every nature or kind necessary or incidental to the withdrawal, processing, and transportation of water from the water supply in Brookville Lake for the benefit of the Corporation shall be at the sole expense of the Corporation.

ARTICLE 14. Review and Approval of Plans. The Corporation shall submit complete and detailed plans and specifications for all modifications or improvements to the raw water withdrawal facilities and equipment it uses to the State and the U.S. Army Corps of Engineers, Louisville District, Louisville, Kentucky, for review and approval prior to installation.

ARTICLE 15. Indemnification. The Contractor agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees from all third party claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Contract. The State will not provide indemnification to the Contractor.

ARTICLE 16. Penalties, Interest, Attorney's Fees. The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law, in part, IC 5-17-5-1, *et. seq.*, IC 34-54-8-5, and IC 34-13-1-6.

ARTICLE 17. Successors and Assignees. The Corporation shall not transfer or assign this Contract nor any rights acquire thereunder without the written approval of the State.

ARTICLE 18. Disputes. Should any disputes arise with respect to this contract, the Contractor and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under this contract that are not affected by the

dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the State or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim against the State for such costs.

If the State and the Contractor cannot resolve a dispute within ten (10) working days following notification in writing by either party of the existence of a dispute then the following procedure shall apply:

The parties agree to resolve such matters through submission of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Contractor and the State within ten (10) working days after presentation of such dispute for action. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to arbitration for a determination, or otherwise the dispute may be submitted to an Indiana court of competent jurisdiction.

ARTICLE 19. Default by State. . If the State, sixty (60) days after receipt of written notice, fails to correct or cure any material breach of this Contract, the Contractor may cancel and terminate this Contract and institute measures to collect monies due up to and including the date of termination.

ARTICLE 20. Notice to Parties. Whenever any notice, statement or other communication is required under this Contract, it will be sent by E-mail or first class U.S. mail service to the following addresses, unless otherwise specifically advised.

Notice to the Agency shall be sent to:

Director of the Division of Water
Department of Natural Resources
402 W Washington St., Room W264
Indianapolis, IN 46204-2641

Notice to the Contractor shall be sent to:

Bridget C. Hayes, Town Council President
City of Brookville
1020 Franklin Avenue
Brookville, Indiana 47012

ARTICLE 21. Force Majeure. In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the

Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

ARTICLE 22. Waiver of Rights. No right conferred on either party under this contract shall be deemed waived and no breach of this contract excused, unless such waiver or excuse shall be in writing and signed by the party claimed to have waived such right.

ARTICLE 23. Compliance with Laws. The Contractor shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the Contractor to determine whether the provisions of this Contract require formal modification.

ARTICLE 24. Governing Law. This Contract shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

ARTICLE 25. Severability. The invalidity of any section, subsection, clause, or provision of the contract shall not affect the validity of the remaining sections, subsections, clauses, or provisions of the contract.

ARTICLE 26. Nondiscrimination. Pursuant to the Indiana Civil Rights Law, specifically IC § 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). The Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be regarded as a material breach of this Contract, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Contractor or any subcontractor.

The State is a recipient of federal funds, and therefore, where applicable, the Contractor and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

ARTICLE 27. Drug-Free Workplace. As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State within ten (10) days after receiving actual notice that the Contractor, or an employee of the Contractor in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years

ARTICLE 28. Ethical Requirements. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in Indiana Code 4-2-6 *et seq.*, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Contractor is not familiar with these ethical requirements, the Contractor shall refer any questions to the Indiana State Ethics Commission or visit the Indiana State Ethics Commission website at <http://www.in.gov/ethics/> (2004). If the Contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under Indiana Code 4-2-6-12.

ARTICLE 29. Compliance with Telephone Solicitations Act. As required by IC 5-22-3-7:

- (1) The Contractor and any principals of the Contractor certify that the Contractor:
 - (A) except for de minimis and nonsystematic violations, has not violated the terms of
 - (i) IC 24-4.7 [Telephone Solicitation of Consumers]
 - (ii) IC 24-5-12 [Telephone Solicitations] or
 - (iii) IC 24-5-14 [Regulation of Automatic Dialing Machines]in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and
 - (B) will not violate the terms of IC 24-4.7 for the duration of the contract, even if IC 24-4.7 is preempted by federal law.
- (2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor:
 - (A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and
 - (B) will not violate the terms of IC 24-4.7 for the duration of the contract, even if IC 24-4.7 is preempted by federal law.

ARTICLE 30. Merger & Modification. This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary parties.

ARTICLE 31. Minority & Women's Business Enterprise Compliance. The Contractor agrees to comply fully with the provisions of 25 IAC 5 and any participation plan that may have been submitted to the State.

ARTICLE 32. State Boilerplate Affirmation Clause. I swear or affirm under the penalties of perjury that I have not altered, modified, changed or deleted the State's standard contract clauses (as contained in the 2021 OAG/ IDOA *Professional Services Contract Manual* or the 2021 *SCM Template*) in any way except for the following clauses identified by name below:

- Payments (Article 6)
- Assignment and Successors (Article 17)
- Default (Article 19)

Compliance with Laws (Article 23)

Minority & Women's Business Enterprise Compliance (Article 31)

Termination for Convenience (33)

Only the first paragraph of the boilerplate Drug-Free Workplace Certification are included in Article 27 because the contract amount set forth in this agreement does not exceed \$25,000.00.

ARTICLE 33. Termination for Convenience. This contract may be terminated, in whole or in part, by the State whenever, for any reason, the State determines that such termination is in its best interest. Termination of services shall be effected by delivery to the Contractor of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective.

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Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Contractor, or that the undersigned is the properly authorized representative, agent, member or officer of the Contractor. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor attests to compliance with the disclosure requirements in IC § 4-2-6-10.5.**

Agreement to Use Electronic Signatures

I agree, and it is my intent, to sign this Contract by accessing State of Indiana Supplier Portal using the secure password assigned to me and by electronically submitting this Contract to the State of Indiana. I understand that my signing and submitting this Contract in this fashion is the legal equivalent of having placed my handwritten signature on the submitted Contract and this affirmation. I understand and agree that by electronically signing and submitting this Contract in this fashion I am affirming to the truth of the information contained therein. I understand that this Contract will not become binding on the State until it has been approved by the Department of Administration, the State Budget Agency, and the Office of the Attorney General, which approvals will be posted on the Active Contracts Database:
https://hr.gmis.in.gov/psp/pa91prd/EMPLOYEE/EMPL/h/?tab=PAPP_GUEST

In Witness Whereof, the Contractor and the State have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below agree to the terms thereof.

CITY OF BROOKVILLE

THE STATE OF INDIANA

By: _____
Bridget C. Hayes, Town Council President
City of Brookville

By: _____
Bryan Poynter,
Natural Resources Commission

Date: _____

Date: _____

Attest:

By: _____
Andrew D. Baudendistel, Attorney

By: _____
Ryan Mueller, Deputy Director
Department of Natural Resources

Date: _____

Date: _____

By: _____
Daniel W. Bortner, Director
Department of Natural Resources

Date: _____

AGENDA ITEM #5

Approved By:
State Budget Agency

Indiana Office of Technology

By: _____
Zachary Jackson, Director

By: _____
Tracy E. Barnes, Chief Information Officer

Date: _____

Date: _____

Approved as to form and legality
this ____ day of _____, 2024.

Approved and ratified
this ____ day of _____, 2024.

Todd Rokita, Attorney General
State of Indiana

Eric Holcomb, Governor
State of Indiana

Sale of Water from State-Owned Reservoirs



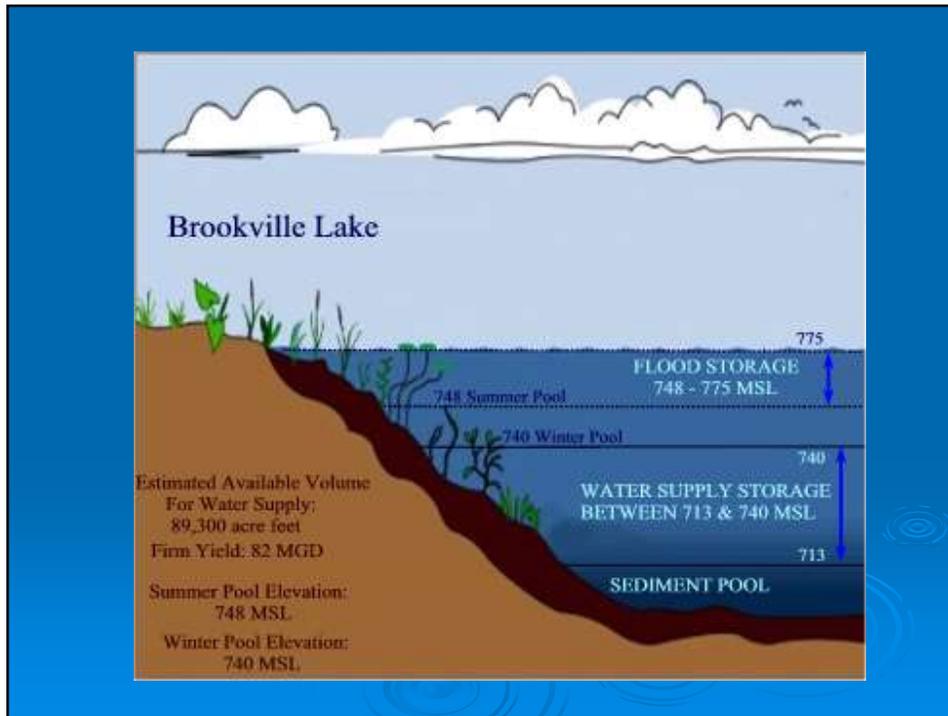
1

Water Supply Contracts

- The State of Indiana owns water supply storage capacity in reservoirs financed wholly or in part by the State.
- IC 14-25-2 allows the State to provide certain minimum quantities of stream flow or sell water on a unit-pricing basis for water supply purposes from this capacity at \$33/million gallons.
- The Division of Water currently administers such contracts on Brookville, Hardy, Monroe, and Patoka Lakes



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The Written Request for Withdrawal 312 IAC 6.3-3-1

- Complete contact information for person entering the contract or for the person serving as point of contact
- Location of Withdrawal or Release
- Proposed Use or Uses
- Proposed Daily Limit for Withdrawal or Release
- Proposed Term in Years & Justification
- Proposed Method of Measurement
- Summary of alternative water supply sources that were considered
- Justification of why Reservoir is most economic or feasible supply source
- A Conservation Plan
- A Contingency Plan describing the alternatives the person will use if water from the reservoir is restricted due to drought alerts (described in 312 IAC 6.3-5-2)

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The Natural Resources Commission will determine to approve, condition, or deny a request for a water withdrawal contract; subject to approval by the Attorney General, Governor, and the Applicant.

Deliberation shall include consideration of:

- The standards provided in IC 14-25-2 and 312 IAC 6.3
- The report of the Advisory Council submitted under section 4(e) of 312 IAC 6.3
- Statements and documents the Commission elects to receive before or during the meeting.

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Factors the Natural Resources Commission may consider in reviewing a request:

- Terms, conditions, and purposes of authorizing legislation
- The likelihood of adverse effects to public safety, the environment, navigation, or recreation.
- Availability of another source of water to the person making the request.
- Proximity of the reservoir to any person that would receive water from the person making the request.
- Water allocation priorities for the use of the water.

6

Water Allocation Priorities

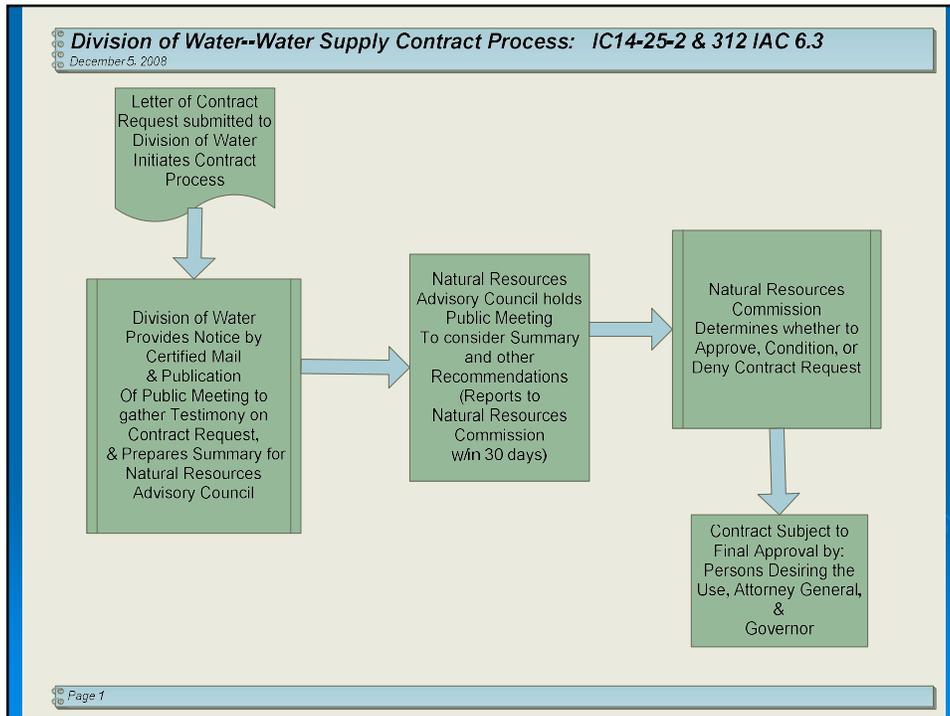
- First Priority: Domestic Purposes described in IC 14-25-1-3
- Second Priority: Health & Safety
- Third Priority: Power Production that meets contingency planning requirements
- Fourth Priority: Industry & Agriculture
- Fifth Priority: Purpose for Third or Fourth priority that does not meet contingency planning requirements
- Sixth Priority: Any Other purpose

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Brook Hill Golf Club Contract Request

- Proposed Use:
- Withdrawal for use as irrigation water for golf course
- Proposed Limits:
Annual Withdrawal Limit of 25 Million Gallons
- Proposed Term:
10 Years
- Conservation and Contingency Plan In Place

8



AGENDA ITEM #5

Contract Process LSA# 08-131F
 Division of Water
 August 28, 2008

